

## Message Text

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ORIGIN ARA-20

INFO OCT-01 EA-11 ISO-00 L-03 AGR-20 SPC-03 AID-20 EB-11

NSC-10 RSC-01 CIEP-02 TRSE-00 SS-20 STR-08 OMB-01

CEA-02 IGA-02 CIAE-00 COME-00 FRB-02 INR-10 NSAE-00

XMB-07 OPIC-12 LAB-06 /172 R

DRAFTED BY ARA/BC/B:JBINNS:BT

APPROVED BY ARA:HWSHLAUDEMAN

ARA:DSZABO (SUBS)

L/ARA:DGANTZ (DRAFT)

ARA/BC:JEKARKASHIAN

EB/FTD:MSMITH (INFO)

EA/IMS:ADORNHEIM (SUBS)

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P 191910Z OCT 73

FM SECSTATE WASHDC

TO AMEMBASSY LA PAZ PRIORITY

INFO AMEMBASSY JAKARTA PRIORITY

C O N F I D E N T I A L STATE 207678

E.O. 11652:GDS

TAGS: ETRD, BL

SUBJECT: COTTON CONTRACTS

REF: LA PAZ 6303 AND PREVIOUS

1. DEPUTY ASSISTANT SECRETARIES SHLAUDEMAN AND SZABO MET WITH AMBASSADOR VALENCIA AND MINISTER COUNSELOR LORIA OCTOBER 27 REGARDING THE COTTON CONTRACTS PROBLEM. SHLAUDEMAN EXPLAINED THAT HE HAD INVITED VALENCIA IN TO REVIEW THE PROBLEM IN A FRIENDLY MANNER AND IN THE CONTEXT OF OUR CURRENTLY EXCELLENT BILATERAL RELATIONS. HE MADE THE FOLLOWING POINTS:

A. THE GOB'S SUPREME DECREE 11016 RETROACTIVELY NULLI-  
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FIED LEGALLY BINDING COTTON CONTRACTS ENTERED INTO IN GOOD

FAITH BY A SUBSIDIARY OF COOK INDUSTRIES, A U.S. FIRM, AND BOLIVIAN PRODUCERS.

B. THE GOB'S ACTION VIOLATES THE SANCTITY OF CONTRACTS WHICH IS THE BASIS OF INTERNATIONAL COMMERCE IN COMMODITIES.

C. COOK INDUSTRIES HAS NOTIFIED THE SECRETARIES OF STATE AND TREASURY OF ITS INTENTION TO REQUEST APPLICATION OF THE HICKENLOOPER AND GONZALEZ AMENDMENTS.

D. THE FAILURE TO HONOR THESE CONTRACTS AND THE SUBSEQUENT RESALE OF THE COTTON COVERED BY THE CONTRACTS WOULD MAKE IT VERY DIFFICULT FOR THE U.S. TO CONTINUE ITS PROGRAMS OF COOPERATION WITH BOLIVIA.

E. WE ARE PARTICULARLY CONCERNED BY THE RETROACTIVE NATURE OF THE DECREE AND WOULD HOPE THE GOB COULD TAKE APPROPRIATE ACTION TO ENSURE THAT THE DECREE DOES NOT PREVENT THE PRODUCERS FROM HONORING THE CONTRACTS.

2. VALENCIA EXPRESSED SURPRISE THAT THE USG IS INVOLVED IN WHAT THE GOB CONSIDERS A PRIVATE MATTER BETWEEN THE BROKERS AND BOLIVIAN DEALERS. THE GOB HAS INFORMED HIM THAT ONLY BRITISH, JAPANESE AND PANAMANIAN BROKERS HAD COTTON CONTRACTS WITH BOLIVIA AND THAT IT BELIEVES ANY DIFFERENCES REGARDING THESE CONTRACTS SHOULD BE RESOLVED IN BOLIVIAN OR OTHER COURTS. HE ALSO STATED THAT THE BOLIVIAN PRODUCERS, WHOSE REPRESENTATIVES ARE CURRENTLY IN WASHINGTON, CLAIM THAT THE AMERICAN AMBASSADOR IN INDONESIA BLOCKED THE OPENING OF LETTERS OF CREDIT IN JAKARTA AND IS THEREBY INTERFERING IN THE SALE OF BOLIVIAN COTTON TO THAT COUNTRY. HE SAID THIS ACTION, IF TRUE, IS MOST EXTRAORDINARY AND THAT HE HAD CABLED OUR AMBASSADOR IN AN EFFORT TO RESOLVE THE PROBLEM. THE U.S. BROKER IN THE INDONESIAN SALE, EARL E. BROWN, ALSO PHONED AMBASSADOR GALBRAITH REGARDING THESE ALLEGATIONS.

3. REITERATING THAT HIS REMARKS SHOULD BE TAKEN IN CONFIDENTIAL

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THE SPIRIT OF FRIENDSHIP THAT CHARACTERIZES OUR BILATERAL RELATIONS, SHLAUDEMAN POINTED OUT THAT COOK INDUSTRIES OWNS THE PANAMANIAN FIRM WHICH HOLDS THE CONTRACTS IN BOLIVIA AND, ACCORDINGLY, HAS A DIRECT INTEREST. HE ALSO OBSERVED THAT THE CONTRACTS WERE IN EFFECT NULLIFIED BY A GOB DECREE, SO THAT IT IS NOT STRICTLY A PRIVATE MATTER. RESPONDING TO THE ALLEGATIONS CONCERNING AMBASSADOR GALBRAITH, HE ASSURED VALENCIA THAT OUR AMBASSADOR HAD IN

NO WAY INTERFERED WITH THE SALE TO INDONESIA AND, IN ANY EVENT, AN AMBASSADOR LACKS THE AUTHORITY TO STOP A PRIVATE BANKING TRANSACTION. HE NOTED, HOWEVER, THAT THE DISPUTE OVER TITLE TO THE COTTON AND THE POSSIBILITY OF LITIGATION MIGHT HAVE CAUSED THE BANKERS TO MOVE WITH UNUSUAL CAUTION. IN THIS REGARD, WE UNDERSTOOD THAT COOK IS TRYING TO BLOCK THE TRANSACTION AND HAD ADVISED BROWN THAT TITLE TO THE COTTON IS IN DISPUTE.

4. LORIA THEN REVIEWED THE BOLIVIAN LEGAL ARGUMENTS. COURTS IN SANTA CRUZ, HE SAID, HAD DECIDED THAT THE ORIGINAL CONTRACTS WITH ADEPA, THE BOLIVIAN GROWERS' ASSOCIATION, WERE VOID BECAUSE THE PANAMANIAN BROKER

HAD FAILED TO OPEN LETTERS OF CREDIT IN TIME AND WAS NOT LEGALLY REGISTERED IN PANAMA. MOREOVER, THE SALE TO INDONESIA IS BEING HANDLED THROUGH ANOTHER BOLIVIAN ORGANIZATION. THE BOLIVIAN EMBASSY HAS DOCUMENTS ON FILE WHICH SUPPORT THESE FACTS AND ON THIS BASIS IT SENT THE CABLE TO AMBASSADOR GALBRAITH. ACCORDINGLY, THE GOB BELIEVES THE DISPUTE IS A PRIVATE MATTER WHICH DOES NOT CONCERN THE USG.

5. WE NOTED OUR MOST RECENT INFORMATION THAT A CASE HAD BEEN FILED IN A LA PAZ COURT, BUT NOT YET HEARD. REGARDING THE LETTERS OF CREDIT, COOK MAINTAINS THAT THREE WERE OPENED PRIOR TO THE CONTRACT DEADLINE AND THAT ADEPA HAD MADE SHIPMENTS UNDER THE FOURTH ONE, DESPITE THE FACT IT WAS OPENED A FEW DAYS LATE. THIS WOULD SEEM TO INDICATE ADEPA CONSIDERED THE CONTRACTS VALID UNTIL PROMULGATION OF THE SUPREME DECREE. THE FACT THAT THE SALE TO INDONESIA IS BEING HANDLED BY ANOTHER BOLIVIAN ORGANIZATION DOES NOT ALTER THE FACT THAT LEGAL TITLE TO THE COTTON IS IN CONFIDENTIAL

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DISPUTE.

6. VALENCIA THANKED SHLAUDEMANN FOR THE INVITATION TO DISCUSS THIS MATTER IN AN OPEN AND FRIENDLY MANNER. HE SAID HE WOULD REPORT THE SUBSTANCE OF THE DISCUSSION TO THE GOB AND ADVISE US OF ANY ADDITIONAL INFORMATION THE GOB MIGHT WISH TO COMMUNICATE. KISSINGER

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